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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

2012 MAR -6 A 9:36

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

MAR - 6 2012

DOCKETED BY

IN THE MATTER OF 1) THE APPLICATION OF
GARY SMYTH, AN INDIVIDUAL, TO TRANSFER
WATER SYSTEM ASSETS AND CERTIFICATE
OF CONVENIENCE AND NECESSITY TO
TIERRA LINDA WATER COMPANY, INC.; AND,
2) THE APPLICATION OF TIERRA LINDA
WATER COMPANY, INC. FOR AUTHORIZATION
TO ISSUE STOCK TO ACQUIRE WATER
SYSTEM ASSETS AND CERTIFICATE OF
CONVENIENCE AND NECESSITY.

DOCKET NO. W-20689A-11-0252
W-20810A-11-0252

PROCEDURAL ORDER

BY THE COMMISSION:

On June 24, 2011, Gary Smyth, an individual, filed an application with the Arizona Corporation Commission ("Commission") for approval to transfer water system assets and Certificate of Convenience and Necessity ("CC&N") to Tierra Linda Water Company, Inc. ("Tierra Linda" and together with Mr. Smyth, the "Applicants"). In the same application, Tierra Linda Water Company, Inc. requested Commission authorization to issue stock to acquire Mr. Smyth's water system assets and CC&N (the "Application").

On July 22, 2011, the Commission's Utilities Division Staff ("Staff") filed an Insufficiency Letter in this docket.

On February 1, 2012, the Applicants filed their responses to Staff's Insufficiency Letter.

On February 28, 2012, Staff filed a Sufficiency Letter in this docket indicating the Applicants' Application had met the sufficiency requirements as outlined in the Arizona Administrative Code ("A.A.C.").

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

1 IT IS THEREFORE ORDERED that the **hearing** in the above-captioned matter shall be held
2 on **May 17, 2012, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices,
3 400 West Congress, Room 222, Tucson, Arizona 85701.

4 IT IS FURTHER ORDERED that Staff shall file a **Staff Report** on or before **April 23, 2012**.

5 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-
6 105, except that all **Motions to Intervene** must be filed on or before **May 1, 2012**.

7 IT IS FURTHER ORDERED that any **objections to the Staff Report or to any Motions to**
8 **Intervene** shall be filed on or before **May 8, 2012**.

9 IT IS FURTHER ORDERED that the Applicants shall **mail to each customer and property**
10 **owner or property owner representative** in the CC&N area a copy of the notice set forth below and
11 shall cause it to be published in a newspaper of general circulation in the service territory, with
12 publication and mailing to be completed no later than **April 2, 2012**.

13 IT IS FURTHER ORDERED that the Applicants shall **file certification of mailing and**
14 **publication** as soon as practicable after the mailing/publication has been completed, but not later
15 than **April 18, 2012**.

16 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing and
17 publication of same, notwithstanding the failure of an individual customer or property owner to read
18 or receive the notice.

19 IT IS FURTHER ORDERED that the Applicants shall provide public notice of the hearing in
20 this matter, in the following form and style with the heading in no less than 14-point bold type and
21 the body in no less than 10-point regular type:
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28 ...

**PUBLIC NOTICE OF THE HEARING ON 1) THE APPLICATION OF
GARY SMYTH TO TRANSFER WATER SYSTEM ASSETS AND CERTIFICATE OF
CONVENIENCE AND NECESSITY TO TIERRA LINDA WATER COMPANY, INC.; AND,
2) THE APPLICATION OF TIERRA LINDA WATER COMPANY, INC. FOR
AUTHORIZATION TO ISSUE STOCK TO ACQUIRE WATER SYSTEM ASSETS AND
CERTIFICATE OF CONVENIENCE AND NECESSITY.
(Docket Nos. W-20689A-11-0252 and W-20810A-11-0252)**

Summary

On June 24, 2011, Gary Smyth filed with the Arizona Corporation Commission ("Commission") an application for approval to transfer water system assets and Certificate of Convenience and Necessity ("CC&N") to Tierra Linda Water Company, Inc., and, in the same application, Tierra Linda Water Company, Inc. requested Commission authorization to issue stock to acquire the water system assets and CC&N. (Together, Gary Smyth and Tierra Linda Water Company are referred to as the "Applicants"). The Commission's Utilities Division ("Staff") has not yet made a recommendation regarding the Applicants' application, and the Commission is not bound by the proposals made by the Applicants, Staff, or any intervenors. The Commission will issue a decision regarding the Applicants' application following consideration of testimony and evidence presented at an evidentiary hearing.

How You Can View or Obtain a Copy of the Application

Copies of the application are available at the Applicants' offices [APPLICANTS INSERT ADDRESS HERE] and the Commission's offices at 1200 West Washington, Phoenix, Arizona, and the Commission's Tucson offices at 400 West Congress, for public inspection during regular business hours and on the internet via the Commission website (www.azcc.gov) using the e-docket function.

Arizona Corporation Commission Public Hearing Information

The Commission will hold a hearing on this matter beginning **May 17, 2012, at 10:00 a.m.**, at the Commission's offices, 400 West Congress, Room 222, Tucson, Arizona. Public comments will be taken on the first day of the hearing. Written public comments may be submitted via email (visit http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf for instructions), or by mailing a letter referencing Docket Numbers W-20689A-11-0252 and W-20810A-11-0252 to: Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007. If you require assistance, you may contact the Consumer Services Section at (800) 222-7000 or (520) 628-6550.

About Intervention

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Any person or entity entitled by law to intervene and having a direct and substantial interest in the matter will be permitted to intervene. **If you would like to intervene, you must file a written motion to intervene with the Commission no later than May 1, 2012.** You must send copies of the motion to the Applicants or their counsel, and to all parties of record in the case. Your motion to intervene must contain the following:

1. Your name, address, and telephone number, and the name, address, and telephone number of any party upon whom documents are to be served in your place, if desired;
2. A short statement of your interest in the proceeding (e.g., a customer of the Applicants, a shareholder of the Applicants, etc.); and
3. A statement certifying that a copy of your motion to intervene has been

1 mailed to the Applicants or their counsel and to all parties of record in the
2 case.

3 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
4 that **all motions to intervene must be filed on or before May 1, 2012.** If
5 representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme
6 Court, intervention will be conditioned upon the intervenor obtaining counsel to
7 represent the intervenor. For information about requesting intervention, visit the
8 Arizona Corporation Commission's webpage at
9 <http://www.azcc.gov/divisions/utility/forms.asp>. The granting of intervention, among
10 other things, entitles a party to present sworn evidence at hearing and to cross-examine
11 other witnesses. However, failure to intervene will not preclude any customer from
12 appearing at the hearing and making a statement on such customer's own behalf.

13 **ADA/Equal Access Information** The Commission does not discriminate on the basis
14 of disability in admission to its public meetings. Persons with a disability may request
15 a reasonable accommodation such as a sign language interpreter, as well as request this
16 document in an alternative format, by contacting the ADA Coordinator Shaylin Bernal,
17 E-mail SABernal@azcc.gov, voice phone number 602/542-3931. Requests should be
18 made as early as possible to allow time to arrange the accommodation.

19 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
20 Communications) continues to apply to this proceeding as the matter is set for public hearing.

21 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
22 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and admission *pro*
23 *hac vice*.

24 IT IS FURTHER ORDERED that the intervention granted herein is conditioned upon the
25 intervenor obtaining counsel to represent the intervenor if required by Rule 31 of the Rules of the
26 Arizona Supreme Court, and such counsel filing a notice of appearance with the Commission, within
27 30 days of the date of this Procedural Order.

28 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
Rules of Arizona Supreme Court). Representation before the Commission includes appearances at all
hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled
for discussion, unless counsel has previously been granted permission to withdraw by the
Administrative Law Judge or the Commission.

...

1 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
2 Communications) applies to this proceeding and shall remain in effect until the Commission's
3 Decision in this matter is final and non-appealable.

4 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
5 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
6 hearing.

7 Dated this 5th day of March, 2012.

9
10 
11 BELINDA A. MARTIN
12 ADMINISTRATIVE LAW JUDGE

13 Copies of the foregoing mailed/delivered
14 this 5th day of March, 2012, to:

15 Lawrence V. Robertson, Jr., Esq.
16 P.O. Box 1448
17 Tubac, AZ 85646

18 Janice Alward, Chief Counsel
19 Legal Division
20 ARIZONA CORPORATION COMMISSION
21 1200 West Washington Street
22 Phoenix, AZ 85007

23 Steven M. Olea, Director
24 Utilities Division
25 ARIZONA CORPORATION COMMISSION
26 1200 West Washington
27 Phoenix, AZ 85007

28 ARIZONA REPORTING SERVICE, INC.
2200 N. Central Ave., Suite 502
Phoenix, AZ 85004

By:


Belinda A. Martin